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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,977	03/19/2002	Francis Emmerson	042933/308282	5510
826	7590	09/11/2006	EXAMINER BAYERL, RAYMOND J	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			ART UNIT 2173	PAPER NUMBER

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/099,977	EMMERSON ET AL.
	Examiner	Art Unit
	Raymond J. Bayerl	2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 July 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 13 - 18, 20 - 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 13 - 18, 20 - 39 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 March 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 13 – 18, 20 – 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roke Manor Research Limited ("Roke Manor"; GB #2 349 548 A) in view of Red Fig Limited ("Red Fig"; GB #2 344 491 A).

As per independent claim 13, directed to a "client-server system" (see also the "client terminal" of independent claim 14), Roke Manor's Downloading software to mobile telecommunication users discloses a "client terminal" having a "portable radio communication device" and "authentication means" comprising "means for checking the validation data of the content downloaded from the server". As seen in fig 1, network subscribers 16 using a variety of mobile communication devices such as mobile phone or PDAs are permitted to contact a network operator 12 via a base station (see page 4, paragraphs 1, 2), so that software is sent to the subscriber site. Then, "content downloaded from the server" is subject to "validation" by "checking", by means of an authentication code which enables the Java™ class software to run. In receiving this authentication code, the Roke Manor "device" receives "validation data" such that the received software is to be "identifiable by said authentication means as originating from the said server", since only the correct "server" for Roke Manor's software would have the correct authentication code. By this data, the client knows that it is dealing with the actual and proprietary network operator, and not some entity that might have produced a retransmission of the code *per se* for the software.

Roke Manor further teaches the use of "menu applications" that provide "a user selectable direct download link", in the form of a list that may appear in a menu type format (page 5, paragraph 3). Such a list will invariably appear as "a sub-menu" in the overall "menu" hierarchy of the mobile communication device. Once the Roke Manor subscriber 16 has made a selection, it is properly enabled by the authentication code, which permits the "client terminal" to know that the "user" is properly established in accepting and running the software that has been "downloaded" as "content" from the "server". The overall "content" transmission in Roke Manor may be further characterized as simply "content which comprises validation data and other data stored at the server", since the authentication code is part of that "content" transmission.

Roke Manor, while identically disclosing the use of a Java™ platform for retrieved software, does not **explicitly** teach that a "browser application controls the radio communication device to transmit a signal to connect to the server". However, Red Fig specifically discloses Browsing the Internet using a mobile telephone, so as to obtain Variable data for HTML pages, accessed via a URL (Abstract). A server process 30 in Red Fig (see pages 7 – 8; fig 2) responds to the URL. HTML pages are an example of "content" that may be directly "downloaded from the server" in Red Fig.

Thus, it would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to operate the user-selectable interface for software retrieval found in Roke Manor via Red Fig's "browser", so that the standard formats of both HTML and Java would have a well-understood channel by which to pass, in obtaining "content" at a "radio communication"-linked site.

When Roke Manor has acquired, authenticated, and installed the software obtained by a subscriber, “storing the downloaded content to a memory of the terminal” takes place, as “default” (claims 15, 21). This “content is installed”, as in claims 35 – 39.

In the combination of Roke Manor and Red Fig, a “download transport protocol” of “HTTP” is used (as in Red Fig), and Roke Manor’s use of an authentication code reads upon the claimed “header” (claims 16, 22 - 24), since in an HTTP environment such as Red Fig’s, the code for a page has the authentication information incorporated into it in a way that it leads other portions of the page and is a “header”.

The Roke Manor authentication code “indicates to the authentication means whether the content is accepted by the portable radio communication device” (claims 25 – 29), since the code is needed to accept and run the “content” that has been downloaded. Since the “content” will not run without the authentication code, “the content is rejected by the authentication means” in such a case (claims 30 – 34), when it would not “originate from t he server” that should have it in its correct form.

Independent claim 17 contains limitations generally found in independent claims 13, 14 as noted above, including “menu applications” and “a user selectable direct download link” (Roke Manor), along with a “browser application” that “controls the radio communication device to transmit a signal to connect to the server” (Red Fig).

Independent claim 18 is rejected for a similar line of reasoning to that developed for claim 17, with its “checking security of the content” further reading upon Roke Manor’s authentication code. This ability to “determine whether or not the downloaded

content is from a trusted server" (independent claim 20) has been treated with respect to claim 13 above—in authenticating at the receiving end the user's entitlement to operate the software, Roke Manor is also allowing the "client terminal" to verify that the sender is indeed the one intended; that of the network operator.

3. Applicant's arguments filed 19 July 2006 have been fully considered but they are not persuasive.

Applicant argues at page 9 that "Roke Manor, at best, discloses that a subscriber of device 16 may request Java™ class software to be downloaded to the device 16 and then the software may be enabled when the subscriber establishes a connection with the network operator 12. The network operator 12 subsequently transmits the authentication code to device 16 so that the downloaded software can be enabled"— "the software and the authentication code are received separately and at different instances by device 16." However, Roke Manor continues to read upon the claims, which now "request content which comprises validation data and other data", since this kind of information is also provided in the software-specific download procedure found in that reference. Even if "validation data of the content" is received in a separate portion of this data exchange in Roke Manor, it can be interpreted that the client terminal in Roke Manor is obtaining a "content" stream that has both the main "content" and its "validation data", since this is what is received in the totality of the "request" procedure. RG

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Bayerl whose telephone number is (571) 272-4045. The examiner can normally be reached on M - Th from 9:30 AM to 4:30 PM ET.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached at 571-272-4063. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (571) 273-8300.

7. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.


RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173
7 September 2006